

# In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1313V

Filed: January 17, 2017

UNPUBLISHED

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ELAINE ROSS,

v. Petitioner, \* Ruling on Entitlement; Concession;  
SECRETARY OF HEALTH \* Influenza ("Flu") Vaccine; Shoulder  
AND HUMAN SERVICES, \* Injury Related to Vaccine Administration  
\* ("SIRVA"); Special Processing Unit  
\* ("SPU")  
\* Respondent. \*  
\* \*\*\*\*\*

*Carol L. Gallagher, Esquire, LLC, Linwood, NJ, for petitioner.*  
*Darryl R. Wishard, U.S. Department of Justice, Washington, DC, for respondent.*

## RULING ON ENTITLEMENT<sup>1</sup>

**Dorsey**, Chief Special Master:

On October 11, 2016, Elaine Ross ("petitioner") filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the "Vaccine Act"). Petitioner alleges that she suffered a shoulder injury from an influenza ("flu") vaccination she received on October 22, 2014. Petition at 1. The case was assigned to the Special Processing Unit ("SPU") of the Office of Special Masters.

On January 17, 2017, respondent filed her Rule 4(c) Report conceding that petitioner is entitled to compensation. Rule 4(c) Rep. at 1. Based on her evaluation of the evidence, respondent concluded that petitioner's alleged injury is consistent with a shoulder injury related to vaccine administration ("SIRVA"), and that it was caused by the flu vaccination she received on October 22, 2014. *Id.* at 4. Respondent did not identify any other causes for petitioner's SIRVA, and petitioner's records demonstrate that she suffered residuals of her condition for more than six months. *Id.* Therefore,

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

based on the record as it now stands, petitioner has satisfied all legal prerequisites for compensation under the Vaccine Act. *Id.* at 4-5.

**In view of respondent's concession and the evidence of record, the undersigned finds that petitioner is entitled to compensation. The scope of damages to be awarded will be limited to petitioner's left SIRVA and its related sequela.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey

Chief Special Master